1

App F IX—4

Previous References

Rev 69 47-4

(1952 53
Cm

File No 27 5'2,
Serial Nos 66, 67, 106
107

Later References

MYSORE GOVERNMENT SECRETARIAT

Serial Nos 4

P=42
E

Part B for June 54

SUBJECT

Amendment of the Bye laws Relating to Dangerous and Offensive Trade in Kolar city Municipality

WD 0249—GPB—25 000—16 9 55

6234/mk

Amendment of the Bye laws Relating to dangerous and offensive Trades in Mysore City Municipality

Gross

The Municipal Comm, Mysore City no C_2 SB13/50 51 dated 5 12 50 forwards certain proposals on the above subject

1) Municipal Collector 69-47 (SC 4) Sanctioning the Bye laws Relating to dangerous and offensive trades in the Mysore City is put up

2) The Municipal Council has Resolved to amend the Bye laws so as to Revise the Rate of Lic fee as advocated in the Resolution dated 30 11 50 of the Municipal Council as a means of augmenting its Resources

3) The Rates as now proposed for adoption have been Revised after objections were perferred from the persons interested to the original proposals for a fair Enquiry It is therefore for Consideration whether the Revised Rates as now proposed should be adopted or not also the published Bye laws for objections before further action is taken

4) Subs for orders

Cire 21/1/51

5) The proposal to revise the rates may be published in the gazette and may be taken up for Consideration in the light of the objections, if any the Rec

6) A

7) Proposal at A may be appd

8) Yes & S & Secy) MS 3/1 Yes M 13/1/51

6234/ml V713/ml

7) Amendment of the Byelaws relating to dangerous and offensive trades, so as to vary the annual fee on trades carried on with the help of electric motors.

9) Draft letter to the Municipal Commissioners Kilmore Rural Municipality to submit the approval

Date 12/1/51
JM
9/1

10) Issue MS
20/1

The Municipal Commissioners
Kilmore Rural
(Chairman President)
Cavan

Sirs
2/2/51

Proposed

The Municipal Commissioners, Kilmore Rural No. C.P. 13/50.51 dated 25th ult. & 31st January have under consideration the proposed amendment of the fees for offensive trades as detailed

4) The present fees & fee as approved by the Kilmore Rural Municipal Council on the resolution dated 30.11.50 are reported to have been considered for objections as suggested in their letter dated 24.1.51. The objections received on their behalf have however been held to be unreasonable on the advice of the Legal Commissioner for the reasons explained to the Commissioners letter. The Commissioners therefore request sanction to the amendment of the byelaws as proposed.

5) The functions & licensing fees are

Re-enactment of the Byelaws relating to Dangerous and Offensive trades in Nelson City which are now to be taken over by the Corporation of Factories under the Factories Act (Consolidation) The Rules framed under the Factories Act have been sent to the Municipal Council, Nelson City Corporation for their comments and it is only after these matters have been considered that the position as regards the Municipal Council's fee for Inspection and licensing fee under the Factories Act becomes more clear It is therefore for consideration and orders whether the present proposal for amendment of the Byelaws in question may not await a decision on the other issues referred to above

13) Subs for orders

Noted 13/5/52
GM 13/5

(A) Today is the last week that the byelaws are in force from the Hill comm. However I commend the Comm on its decision to monitor

14/5

A D O Reminder is put in for 14/5

Noted 14/5/52

(B) Later - the Recorder has issued certificates as per above

3/9

on these cases except a few breaches of the Nelson City Council Bylaws as provided above

7/8/81 V534 8/81

If Boys Canes Co Coop fee on Crude Carried on with Electric Motor [illegible] [illegible] yet? [illegible]

[illegible]

The Hd Coconut Officer Kisan Sabha Rly Co P R-13/50-51 Dy 11 Feb 52 forwards a Copy of his letter dated 30 4 52

17) The Coconut Collr dated 30 4 52 referred to has been received and for due consideration of this question has to await the finalisation of the draft Rules framed under the Coconut Act on which the Recruitment by the Regional Selection Board is laid down in the Central file. In spite of Reminders the views of the Central have not yet been received, the last reminder issued on 7 5 52 Regarding Laying down Standards for Recruitment by the Regional Selection Board the Central file contains a note dated 14 3 52 from the Chairman, Regional Selection Board in which he has suggested that the draft Rules should be framed to have been given and the file referred back to the Law Dept for finalisation of the Rules

18) The present Recommendation Rly 2/6/52 Government the Rules under DO 2/6/52 the Factory Act are framed and adopted The Inspector Sub

1952/LD 5343/52 5713/52-53

Bye Laws Co Coop Fee on Grades carried on audit of Elec Clubs Notaries - Amendment of

is nearly two years old Examine whether the required formalities have been observed This should be treated as urgent

27/10

19) The Required formalities of advertising for objections to the proposed amendment and the final approval of the Council thereto have been observed through 20) an Order in Council of the above order this file may now be referred to the Law Secretary for Scrutiny & the draft amendment flagged "S" and approved thereafter 21) 30/10

Secy dept)

30/10/52

22) From Secretary Dept 30/10/52

Lawdey)

23) Legs 31/10

24) The sale of licence fee proposed to be enhanced appears to be unreasonably excessive

7320
31 OCT 1952
LEGISLATIVE DEPARTMENT
1 NOV 1952
GENERAL

(= Bye-laws to levy fee on Rolls carried
on new electric works — Amendment
1952 CD 5348, no 713 RC
as it is now being levied in
terms of rules 4 & 5 the
Madras High Court have in a
case cited as Narasimhan's — Book not readily available for reference by
"Interpretation of Statutes", [Spencer
& Co by Kuppu Ayyar] A I R
held that "license fee" x A & R
could only be meant to cover 1930 Madras 55
the charges involved in the
process of issuing the license
and it cannot be a revenue
yielding device On this principle,
it appears that the rules proposed
are unjustifiable
Kindly see order
Law Secy)

Secy
18/11/52
Rec
18/11

18/11

25) The rules under the Factories Act
have been formulated more
now in force under them, licence
fees are levied from factories
the rates depending upon H.P
& the number of workmen
employed ~~Mechanical power~~
~~Coal~~ Can the Municipality
levy in addition a similar fee
under the T.N. Act?

24/11
Rec
24/11

Sir M S
Mas
24

DSP I
19 NOV 1952

Bye-laws to levy fee on trades carried on by the electric motors - Amendment/1952/LD

26) The Labour Secretariat may be requested to make available an upto date copy of Rules under the Factories Act for reference and return

Mue 24/11

Mas 24/11/52

Under Secy (Lab) 27) Nov 25/11 28) Compld 26/11

MBBS

29) Spare copies of the recent Factories Rules 1952 are not available in the Branch A copy of the same may either be obtained from the Sale Copy Section or it may be found in the Regular Gazette dated 21st August 1952 and the subsequent issue The Rules are published in Govt Notifn No LS 1750/LW 178-51-18 dated 11th July 1952 and were referred to in paras 26 to 28 above

Sin MBS 26/11/52

Mas 27/11/52

Sin KNV 1/12/52

27 NOV 52

Dep Secy Labour 26/11

Nov 26/11

30) It seems that if a person has to comply with more than one enactment in carrying on any trade or business, such compliance is necessary He cannot contend that compliance with one enactment exempts him from compliance with other enactments, unless there is some conflict between

between the provisions of the different enactments, when it will be necessary to determine the enactment which will be enforceable

31) So far as the provisions of the Factories Act, 1948, and the Mysore City Municipalities Act, 1933, are concerned, it appears that there is no conflict between the two enactments The validity of the exercise of the power to levy fees for licences under the two enactments will have to be considered separately The levy of licence fee by the Municipality on the basis of the H P as proposed appears to be invalid for the reasons mentioned in para 24 A recent judgment of the Madras High Court in a similar case, ~~also~~ namely, Varadachara vs State of Madras (A I R 1952 Madras 764) affirms the decision referred to in para 24 The following general tests have been formulated by the Courts to decide whether a particular fee is reasonable or not They are

(1)

General and Revenue Secretariat

Amendment of the Bye-laws relating to dangerous and offensive trades [App F III E]

Purpose Cutting File No Municipality of 19 1952/LD WD 014428—GPB—40 000—13-7-51

Serial No

(1) the licence fee may reasonably cover the cost of all special services necessitated by the duties and liabilities imposed on the authority in respect of the supervision and regulation of the particular trade or calling in respect of which the licence is issued

(2) there must be some relation between the expenses incurred in the issue of licences and in regulating the licensed trade and other occupation and the amount of fees leviable when the licensing authority issues a number of licences to persons engaged in different trades and occupations, it would be unreasonable if they so fixed the fees that the whole cost incurred by them in connection with all the licences or a grossly disproportionate part of it was imposed on the particular trade or a few particular trades

3) Tested on these principles, it appears that the licence fees ~~proposed~~ now levied and proposed to be enhanced is disproportionately high compared to the expenditure which the municipality may incur for the grant of licences and the enforcement of the conditions of those licences

(Law Secy) 33)

Mas 4/12/52

4/12

NOTE—Contn Sheet.

Bye-laws to levy fee on trades carried on with Electric Motors – Amendment of –

File No 1952/LD 5348 of 19

General and Revenue Secretariat

Serial No

34) I do not know on what bases it is said that the rates proposed are disproportionately high so as to render the legality of the levy open to attack –

Please speak

Sd/-
8/12
Sd/-
8/12

Discussed

35) The minimum fee which was Rs 5/- per annum for trades using up to 5 H P is proposed to be increased to Rs 25/- per annum when the license fee is varied according to the H P used A license fee cannot be a source of revenue but must be to meet the expenditure incurred in regulating the trades by license If the fees collected are disproportionately high compared to the expenses incurred the fee would be illegal and unconstitutional as decided in A I R 1952 Madras 764 which is a very instructive judgment on this point I further see that the levy proposed is also discriminatory and unless the classification made is reasonable, the discrimination would be unconstitutional The Administrative Secretariat has to examine the proposals in the light of the principles laid down in the Madras case referred to above and then say if the levy proposed is reasonable and not disproportionately high

19 DEC 1952

19 DEC 1952

SECRETARY TO GOVT 955 19 L Examiner Daily

Secy Ldg)

36) Sd/-
17/12

Bye laws to levy fee on Trades carried on with Electric Motors Amendment of

General and Revenue Secretariat | File No 5348 Mel of 1952-53 | [App F III-2

Serial No	
	37) Be To enable knowing whether the licence proposed is Reasonable or high it is necessary to ascertain from the Commissioner the following particulars —
	1) The different Categories of Trade using electric Motors and which are Required to obtain a municipal licence under the bye laws in question
	2) The amount of licence fee Realised during the past 3 years under each of the above Category of Trade or Persons - Information to be furnished year-wise
	3) The amount Expended yearwise during the past 3 years on the issue of licences and on Regulating the Licensed Trade or other occupation in respect of each Category of Trade Separately
	38) If approved the above enquiries may be called for 39) Yes 24/12/52 27/12 DM 24/12
NOTE—Contn Sheet	40 39) After Collecting the Necessary Returns may be put up for approval 28/1/53 DM 28/1/53 41) Issue 30/1

5348

Bye laws to levy fee on Agriculturists carried on with Electric Motors - Amendment of —

File No — of 194 | General and Revenue Secretariat

Serial No

2a

The Md Commr Myscor calg - Rlf (Ctr prdl-)
L 19023/Ctr 2)-52-6) dated 3-2-53
Calls for certain observations

Subd
Sy 3/2/53
4/2

42) Remarks as first rep for appl
Sy 2/1/54

43) Issue
Sy 1/2/54

R 8801 1426) /4-2 54

From The Sr C Engrs
C2 PR 20-D/50 dtd 30/1/54
forwarding the information asked
for regarding the
of fact

44) The judgment of the Madras High Court has not been
enclosed & therefore Govt regret
unable to offer any comments as
in Para 35 supra Perhaps the Madras Govt
question is one of some importance to
be by the Md Commr

45) The Govt to state that
there is no separate estt for the purpose
this reply is required to the Md Resolution
which is pending approval of Govt

46) The Law Dept may be

Z

Consultation on a rent reduction and PH Cl
applying a rent and legal Committee
It to be opposed but long a term for an
a bona fide is discriminatory and unlawful
There to be a lot of objections to a proposed
increase long for penal terms where a low rent
may be consulted on a rent reduction proceedings
5/12) a PH Common action may be opposed

4) Get a copy the — Hackney high
Con's judgment as not a memorandum
in the file

cop c/s draft a tenancy judgment

Jones (2)

Jones 7 1st/ch - 7/6/51 7 court
case and a 1/ch - 7/6/51 h a long
4/12 copy 2 copy 1/ch - 15 of 1952 7/12
from the same
a County High Court judgment
The judgment are Queens High
Court, Now set by same myself, as to some of an
reserve to bind her long - Par 35 supra
Jones 7 wants to a rent and legal Committee
for PH Reduction - 28/7/52 It is considered that
rental rate on house fair basis for four
The Law Dept may be consulted y a reduction are
PH Cl may be opposed The existing rate for
proposed rate on four - a PH Nov 1 12/4/51
It is stated that no establishment charge on
rental repairs on the account
Solicitors may have

Amendments of the Bye-laws relating to dangerous and Offensive trading carried on with Electric Motors

File No 7119/Re 1582 49/52 of 1953 54 | 1952/KD 21/54-55

Mysore Government Secretariat

Serial No KD

Consulted on the Point noted at 'A'

1/4/52

Secy (Dept)

S3) for fo remarks

2/4

Law Secy)

S4) In view of the following observations of the Supreme Court in the latest judgment in Civil Appeal No 38 of 1953 (Commissioner, Hindu Religious Endowment Madras Vs. Sri Lakshmindra Thirtha Swamiyar of Sirur Mutt) namely a Coming now to fees, a 'fee' is generally defined to be a charge for a special service rendered to individuals by some governmental agency The distinction between a tax and a fee lies primarily in the fact that a tax is levied as a part of a common burden while a fee is a payment for a special benefit or privilege " In view of these observations it appears

Regis 3/4/54

SR K N 4/4/54 MB 5/4/54

LEGISLATIVE DEPARTMENT 5 APR 1954 RECEIVED

JD 5/4/54

Mysore Government
Secretariat

File No

of 195

WD 03547 CPB—40 070—14 8 53

Serial No

8248/M Amendment to Bye laws by the City Municipal Council relating to dangerous and offensive trades carried on with Electric Power

Rohini

1954 CO CO

that an order have to be passed in conformity with the principle laid down by the Supreme Court for levy of fees for orders whether the amounts to be levied may be confirmed accordingly

55)

PTI 1-MAY 1954 ISD DPSTN

Secy 28/4/54

JR 28/4/54

56) Mas 29/4/54

Law Secy 57) agree with the above as per secretary - LSG

30/4/54

Mas 30/4/54

58) A/s ml

Dfs 3/5

57) The legal issues involved in the proposal for orders whether MI Corpn may be required to fix the rates so as to be reasonable in conformity with the principle laid down by the Supreme Court for levy of fees as remarked above or the rates as fixed by MI Corpn may be approved as it is stated that the rates are fair and there is no motive of profit-making

Dfs 5

DI 25/5

60) Dft a letter

31/5

61)

Submitted with a draft letter for approval

DI 31/5

62) Issued

d 2682/CM 27-5-54 106

DI 12 6 54

NOTE—Contn Sheet

Form A 1576

Amendment to the Bye-laws relating to the Dangerous & offensive Trading carried on by Electric Motors

File No 13 of 195

Mysore Government Secretariat

Serial No 2953 57-56

63) Remainder is for info -

64) Done

RNOL 10027 /13-11-54

From -

The Pl Comm Mysore City - Mlg

C2 PR 20-13/52-57 dt 28 7 53 -

Forwards his report on the matter

65) The letter of the Pl Comm Mysore City Mlg is for perusal

It is stated that the Pl Comm at their meeting held on 27 7 53 - have resolved that the rates - sanctioned by Govt in their order no L 15299-301/Pl 69-47-4 dt 31 3 1948 may Hand and that it may be desirable to enhance the license fees as recommended already

Flag A

66) He has therefore requested to treat the matter as Closed

The matter may Accordingly be treated as closed -

yes

25/8 MG 25/8

B 26/9 MG

Cr 1213 SD 57 Dec Objects petns & Reduce
Per Regd Post

No
Encl

CITY MUNICIPAL COUNCIL
Mysore Dated 5th December, '50

FROM

SRI C NARASIMHA MOORTY M A
MUNICIPAL COMMISSIONER
City Municipal Council Mysore

To

Sri L Muniswamy, B A ,
Secretary to Government,
L S G Department,
Bangalore
(Through the President)

Subject - Amendment of the byelaws relating to dangerous and offensive trades so as to levy licensing fee on trades carried on with the help of Electric Motors

---

I have the honour to state that while considering the several resources for improving the finances of the Municipality during the consideration of the Budget Estimates for the year 1950-51, the Council were of opinion that the present fee levied for licensing the trades run with electric motors, as sanctioned in G O No L 15299-301/M1 69-47-4 dated 31-3-1948 (copy enclosed) was very small when compared with the income that is being realized by the owners thereof, and resolved to revise the levy to be as follows -

	Item	Present levy	Proposed levy
1	Upto 5 H P	A minimum of Rs 5/- p a	A minimum of Rs 25/- p a
2	Above 5 H P upto 10 H P	A fee of Re 1/- per H P P A	Fee for every additional H P to be charged at Re 1/- P A
3	Above 10 H P	Rs 1-8-0 for every additional H P P A	Fee for every additional H P to be charged at Re 1-8-0 H P per annum

Objections were called for to the above proposal in this office Notification dated 3-5-1950 Owners of Rice Mills Power looms, Printing Presses all presented objections petitions The Rice Mill owners represented that in addition to the heavy establishment charges, they are meeting under ~~starved~~ stamped conditions it would be greatly difficult

to pay the enhanced levy The owners of Power looms represented that their industry were rather poor and required indulgence The owners of printing presses coffee grinders represented that they used motors of hardly 1/4 to 1 H P and such a huge levy would greatly affect their limited income

The Council examined all the points at great length and have resolved to revise the levy in modification of what was originally proposed as follows on the recommendation of the Managing Committee to whom they had referred the subject back

1 Upto 2 H P (inclusive of 2 H P)	a minimum of Rs 5/- p a
2 Above 2 H P to 5 H P inclusive of 5 H P)	Rs 10/- p a
3 Above 5 H P to 10 H P (inclusive of 10 H P)	Rs 15/- p a.
4 Above 10 H P	For every additional H P Rs 1-8-0 p a

and in the case of different motors used for the same trade or more than one trade or business levy be made separately for each such motor or trade or business

In enclosing a copy of the original proposal and also the Gazette Notifications together with objection petitions and the latest decision of the Council revising the levy I request you kindly to obtain very early sanction of Government to the resolution of the Municipal Council dated 31-11-1950

Yours faithfully,

Municipal Commissioner.

snr Forwarded with Compliments 6/12/50

A Lingamma
President

Proceedings of the Ordinary Meeting of the Municipal Council held in the Municipal Offices on Thursday the 30th November, 1950 ~~in the M~~

---

953 Managing Committee Res No 308/20-11-1950 opining on the referred subject No 808/30th October 1950 of the Council regarding the final approval of the amendment of byelaws relating to the dangerous and offensive trades so as to levy licensing fee on trades carried with the help of the electric motors noted on the name plates of the motors, that the proposed levy might be modified as follows -

1	Upto 2 H P (inclusive of 2 H P)	a minimum of Rs 5/- p a
2	Above 2 H P to 5 H P (inclusive of 5 H P)	Rs 10/- p a
3	Above 5 H P to 10 H P (inclusive of 10 H P)	Rs 15/- p a
4	Above 10 H P	For every additional H P Rs 1-8-0 p a

and in the case of different motors used for the same trade or more than one trade or business levy be made separately for each such motor or trade or business

Approved

Sd S Linganna,
President

Copy

Municipal Commissioner

4

Proceedings of the Government of His Highness the Maharaja of Mysore

Read -

Correspondence ending with letter No M5 C 590-171 of 44-45 dated 4th December 1947 from the President, City Municipal Council, Mysore, requesting sanction to the proposal of the Mysore City Municipal Council to amend the byelaw ~~and byelaws~~ No 4(b) in Chapter XXIV of the Mysore City Municipal Rules and Byelaws, relating to the Dangerous and Offensive Trades so as to provide for the levy of licensing fee on such of the items of the above category of trades as are carried on with the help of an electric motor, on the basis of the horse power of the electric motor noted on the name-plate as noted in the margin -

1	Upto 5 H P	A minimum of Rs 5/- per annum
2	Above 5 H P upto 10 H P	A fee of Re 1/- per H P per annum
3	Above 10 H P	Re 1-8-0 for every additional H P per annum

ORDER NO L 15299-301/M1 69-47-4 dated BANGALORE THE 31st March 1948

The proposal of the Mysore City Municipal Council is approved

The following will be added under Byelaw No 4(b) as item No 3 on page 176 of the Rules and Bye laws relating to Mysore City Municipality

"In the case of a business in which an electric motor is used, the licensing fee shall be levied on the basis of the horsepower noted on the name plate, as noted below:-

1	Upto 5 H P	a minimum of Rs 5/- per annum
2	Above 5 H P upto 10 H P	A fee of Re 1/- per H P per annum
3	Above 10 H P	Rs 1-8-0 for every additional Horse Power per annum

Sd G Ramachandra Rao,
For Secretary to Government,
Revenue Department

To the Municipal Commissioner, Mysore City,
Through the President, City Mnicipal Council, Mysore

"copy"

for Municipal Commissioner

5

Proceedings of the Adjourned Special meeting of the Mysore City Municipal Council held on Saturday the ~~15~~ 15-4-40 at 3 P M in the Municipal Office

990 Managing Committee Res No 424 A-12 Viz , Resolved to recommend to the council that regarding license fee on such of the trades run by electic motors, the license fee shall be levied on the basis of the H P at the following rates -

(i) up to 5 H P	Minimum of Rs 25/- P A
(ii) Above 5 H P up to 10 H P.	For for every additional H P to be charged at Re 1/- per H P P A
(iii) Above 10-H-P	For every additional H P to be charged at Rs 1-8-0 per H P p a

Moved by Sri T S Rajagopala Iyengar } Passed
Seconded by Sri B L Ramaswamy Setty }

~~Passed~~

Resolution - Approved

Sd S Linganna
President

Copy

H S Narayanaraj
For Municipal Commissioner

6

G R S App F G 3]

GENERAL AND REVENUE SECRETARIAT

~~Continuation short draft form~~)

2 Copies

No 4 10877/WR D 24/11/51

To

The Commissioner Mysore City Municipality (Through the President)

Subject Amendment of the Bye-laws relating to dangerous and offensive trades so as to levy licensing fee on trades carried on with the help of electric motors

—

Sir

With reference to your letter No C2 1p 13/50 ST dated 5 12 50 on the above subject, I am directed to state that the Rates recommended by the Municipal Council vide Resolution dated 30 11 50 under your letter

notified for objections on
your notification dated 3 5 50
Hence it is considered necessary
to re notify for objections these
modified proposals. Action may be
taken accordingly, and ~~proposals~~ fixed
Report ~~Notice~~
Letter sent up for consideration
along with a ~~further~~ resolution
of the Municipal Council thereon. Very early
Records accompany

Yours faithfully

MS
20/1

Secy
Co
17/1/51

JM

GOVERNMENT OF MYSORE

No R. 10877

General and Revenue Secretariat

Dated Bangalore 24/4/51

From

The Secretary to the Government of Mysore
In the Local Self Government Department
Bangalore

To

The Municipal Commissioner,
Mysore City Municipality
(thro' the President)

Sir

Sub - Amendment of the Bye-laws relating to dangerous and Offensive trades so as to levy licensing fee on trades carried on with the help of Electric Motors

---

With reference to your letter No C2 P 13/50-51 dated 5-12-50 on the above subject, I am directed to state that the rates recommended by the Municipal Council vary from those notified for objections in your notification dated 3-5-1950 Hence it is considered necessary to re-notify these modified proposals action may be taken accordingly, and a report sent for consideration along with a further resolution of the Municipal Council very early

Records accompany

Yours faithfully,

for L S G Secretary to Government

Hsc-2)

No L2 P13/50 51
Encls 3 copies (Objections marginal)
Note Return copy

RECEIVED 7/3 3 MAY 1952 MUNICIPAL BRANCH

CITY MUNICIPAL COUNCIL
P B N 17
Mysore Dated 25- -1952

9

From

THE MUNICIPAL COMMISSIONER
CITY MUNICIPAL COUNCIL
MYSORE

To The Secretary to Government,
L S G Department, Bangalore

Sir,

Subject Amendment of the byelaws relating to Dangerous and Offensive trades so as to levy licensing fees on trades carried on with the help of Electric Motors

---

Adverting to your letter No L 10877/MR 24-1-1951 dated 24-1-1951 on the above subject, I write to state that the rates recommended by the Council in their resolution of 30-11-50 were re-notified both in the official Gazette and in the local papers A copy of the Gazette Notification dated 12-2-1951 is enclosed for reference In response to this notification objections were received from the following firms or owners of motors

No Date 1/5

1) Bhavani Shankar Battery Service Station
2) Chikkiah Saraswathi Rice & Oil Mills, Idiga
3) The Mysore City Rice Mill Owners Association enclosing a copy of the resolution passed at a meeting of the Association held on 17-3-1951
4) Sri Upadhyay Flour Mills

The main contention was that levy of licens~~-fee~~ on name plate was not correct and that the levy on the rated horse power allowed by the Electric Department would be correct

Certain observations having been made in the resolution of the Rice Mill Owners' Association, that the licensing fee should be only a nominal levy and that the Municipality had no powers to enhance the license fee as proposed, the entire matter was examined by the Legal Committee of the Council at length

It was the opinion o the Legal Committee that the objections were not tenable, as the rated horse-power was not constant and subject to changes according to the frequency of the electric supply obtained for the motors They (the Legal Committee) therefore recommended to the council that the objections were not tenable and were open to be over-ruled by the Council

The Council also considered the subject at considerable length and were in full agreement with the recommendations of the Legal Committee They have accordingly resolved at their meeting held on 22-2-1952 to accept the Legal Committee's recommendations and to give effect to the revised rates

In enclosing copies of the resolution of the Legal Committee and Council as also the objections received, I request that orders of Government may be kindly obtained approving the amendment proposed by the Council as per Gazette Notification

Yours faithfully,
S Seshagiri Rao
(S Seshagiri Rao) 25/4/52
Municipal Commissioner i/c

Forwarded with Compliments
A Kumaraswamy
President
25/4/52

No C2 P R 13/50-57 11

Encls 2+0

GENERAL & REVENUE SECRETARIAT 5-348 MUNICIPAL BRANCH

CITY MUNICIPAL COUNCIL
P B N 17
Mysore Dated 11th October 1952

From

THE MUNICIPAL COMMISSIONER
CITY MUNICIPAL COUNCIL
MYSORE

To LSG

The Secretary to Government,
L S G Department,
Bangalore

or MAS

Sir, CM 27-52-66

Subject - Amendment of the byelaw relating to Dangerous and Offensive trades so as to levy license fees on trades carried on with the electric motors ~~cars~~

With reference to your letter reminder No L 6874 713 dated 11-8-1952 on the above subject I write to state that the reply called for in the matter in your letter No L 10877 dated 24-1-1951 has already been sent to you in this office letter No C2 P 1350/50-51 dated 30-4-1952 I enclose a copy of the same for ready reference and request that orders of Government may kindly be obtained thereto

Yours faithfully,

(F M Abdul Rahim)
Municipal Commissioner

11/10

snr

12

Copy of letter No C2 P 13/50-51 dated 30-1-52 from the Municipal Commissioner, City Municipal Council, Mysore to the Secretary to Government, L S G Department, Bangalore

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Subject - Amendment of the bye-laws relating to the Dangerous and Offensive trades so as to levy licensing fees on trades carried on with the help of Electric Motors

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Adverting to your letter No L 10077/Mr 2-1-51 dated 24-1-51 on the above subject, I write to state that the rates recommended by the Council in their resolution No 30-11-50 were notified both in the official Gazette and in the local papers A copy of the Gazette notification dated 12-2-51 is enclosed for reference In response to this notification objections were received from the following firms or owners of motors

1. Bhavani Shankar Battery Service Station
2 Chikkalian Saraswathi Rice and Oil Mills, Mysore Idiga
3 The Mysore city Rice Mill Owners Association enclosing a copy of the resolution passed at a meeting of the Association held on 17-3-51
4 Sri Upadhya Flour Mills

The main contention was that levy of license fee on name plate was not correct and that the levy on the rated horsepower allowed by the Electric Department would be correct

Certain observations having been made in the resolutions of the Rice Mill Owners' Association, that the licensing fee should be only a nominal levy and that the Municipality had no powers to enhance the license fee as proposed, the entire matter was examined by the Legal Committee of the Council at length

It was the opinion of the Legal Committee that the objections were not tenable, as the rated horsepower was not constant and subject to changes according to the frequency of the electric supply obtained for the motors They (The Legal Committee) therefore recommended to the Council that the Objections were not tenable and were open to be over ruled by the Council

The Council also considered the subject at considerable length and were in full agreement with the recommendations of the Legal Committee They have accordingly resolved at their meeting held on 28-2-52 to accept the Legal Committee Recommendations and to give effect to the revised rates

In enclosing copies of the resolution of the Legal Committee and Council as also the objections received, I request that orders of Government may be kindly obtained approving the amendment proposed by the Council as per Gazette Notification

---

Copy

for Municipal Commissioner

PSK

13

Proceedings of the Legal Committee Meeting held in the Municipal Offices on Tuesday the 12th February 1952 at 4 p m

--

15 Def.Sub.No.6 dated 21-1-51 re: amendment of byelaws relating to dangerous and offensive trades so as to levy revised license fee on trades carried on with the help of electric motors as notified on 12-2-51 and objections received are mentioned in the note and further report from the Health Officer is also put up

The proposed change to enhance the licensing fee as well as the objection received thereon, were perused. The objection is not tenable and it is open to the council to overrule the objection and enforce the revised rates

Sd. P Seetharamiah,
Chairman

"copy"

for Municipal Commissioner

Proceedings of the Ordinary Meeting of the Municipal Council held in the Municipal Offices on Thursday the 28th February 1952 at 4 p m.

1137. Legal Committee Res No 15/12-2-52 that the objections of the Mysore City Rice Mill Owners' Association regarding the revision of the byelaws relating to dangerous and offensive trades carried on with the help of electric motors as notified on 12-2-51, are not tenable and that it is open to council to overrule the objection and enforce the revised rates

Legal Committee recommendations accepted Revised rates may be given effect to

Sd. A Krishnamurthy Rao,
President

"copy"

for Municipal Commissioner

14

No. L 19023/[illegible]-SR 67

R 372/53

To

The Municipal Council
Mysore City Kelly
(Chairman this Body)

Subject: Amendment of the bye-laws Relating to Dangerous and offensive Trades Carried on within Municipal Limits

Sir,

With Reference to your letter No C P R 13/50 51 dated 11 10 52 on the above Subject, I am directed to Request you to furnish information on the following points -

(1) The different Category of Trade or any Electric Motors and which are Required to obtain a Municipal License under the bye-laws and question

(2) The amount of License fee, Realised during the past 3 years under each of the

Reason 2/2/53

15

the above Category of Trade or Business

3) The amount spent each year during the past three years on the issue of Licences and on Regulating the Licensed Trade or other occupation under these bye laws, separately in respect of each Category of Trade

An early reply is Requested

Yours faithfully

for L S G Secy

KS 30/1/63

30/1

or 28/1/63

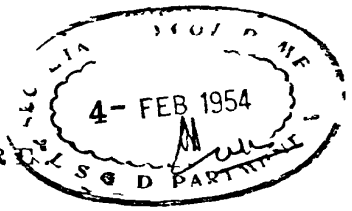
No C2 PR 20-12/50-57 - 7119 16
Encls 1

CITY MUNICIPAL COUNCIL,
P B No 17

My ore Dated 30-1-54

FROM

THE MUNICIPAL COMMISSIONER
City Municipal Council
MYSORE



To

The Secretary to Government,
L S G & Planning Department
Bangalore-1

Sir,

Subject - Amendment of the Bye-law relating to dangerous and offensive trading carried on with Electric Motors

---

Reference - Your letter No L 19023/CM 27-52-67 dated 3rd February 1953

The different categories of trades using Electric Motors, which are required to obtain Municipal licenses and the amount of license fees realized during the past three years is noted in the annexed statement

No separate establishment is being maintained for the issue of licenses and regulating these trades or occupations The work is being looked after by the Health Inspectors and Assistant Health Inspectors of the concerned Divisions on the executive side, while the clerk attending to issue of Hotel and other licenses in the Health Section attending to these papers in the office

It is to be stated that subsequent to this office reference dated 30-4-52 referred to in letter dated 11-10-52 adverted to in your letter under ~~reference~~ reply, the Rice Mill and Flour Mill owners Association, represented through their Presidents or Secretaries to the President and the Commissioner to the effect that the levy of fees on the several trades cumilatively as resolved and notified by the Council on 12-2-51 and on the basis of Horse power noted on the name plates as at present even as per Government order

P T O

order dated 31-3-48 sanctioning the existing levy (copy enclosed) works as a great hardship They produced some Judgements of Madras High Court (copy enclosed) These questions were examined by the Legal Committee along with the note of the Health Officer dated 21-1-52 and this office note dated 21-4-52 in detail and they finally opined that the revised rates on horse power basis is a fair and the idea is not to get an income to the Municipality from this source but to have a control over the trade which comes under the category of dangerous and offensive trades and the fees may levied as per existing rules A copy of the resolution is - enclosed

Many of the Rice Mill and Flour Mill owners have not taken out licenses on the score that their representations have not been taken into consideration Hence Prosecutions were launched against them as per rules for carrying on the trade witnout licenses Several proprietors approached this office and represented that the levy proposed by the Council works not only as a hardship but also affects their fundamental rights

It is doubtful if this stand of theirs is correct The petitioners however have been endorsed that they should pay at the rates sanctioned in 1948 at least

A copy of their objection examined by the legal committee and the note of the Health Officer and this office is also - enclosed

I request that orders of Government may be kindly obtained in the matter

Yours faithfully,

(N Lakshman Rau)
Municipal Commissioner

Forwarded with compliments,

(K Puttaswamy)
President

18

Proceedings of the Legal Committee held on 9-9-53 at 4 P M in the Municipal Offices

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18 Deferred subject No 6 dated 12-5-53 re ref subject No 403 of the Council dated 7-7-52 regarding Managing Committee res No 74 dated 20-5-52 that the representation of the Rice Mills and Flour Mills owners' Association regarding the levy of licensing fee on electric motors is belated and that there is no force in the contension of the Association (Appeal petition of Sri Gajanana Rice and Oil Mill and Flour Mills owners' Association re the levy of license fee on elec ric motors is belated and there is no force in the contension of the Association- Appeal petition dated 16-8-52 of Sri Gajanana Rice and Oil Mills Ltd , is also enclosed) Notices to be issued to Gajanana Rice and Oil Mills, Ltd , and also to Sri Janaradhan Naidu to be present

The legal Committee agrees with the views expressed by the Managing Committee The revised rates on H P on plate basis are fair and it is not in the nature of a fees levied for getting an income to the Municipality

The licensing fees to be levied for each trade which is offensive or dangersous may be levied as per existing rules

Sd P Sitharamaiah
Chairman

Proceddings of the Ordinary meeting of the Municipal Council held on 28th September 1953 at 4 P M

---

740 Legal Committee Res No 18/9-9-53 on the Ref Sub No 403 dated 7-7-52 of the Council about the representation of the Rice Mills and Flour Mill owners' Association regarding the levy of licensing fees on the electric motors etc , that the Legal Committee are in agreement with the views expressed by the Managing Committee in their resolution No 74/20-5-52 and the revised rates on horse power on plate basis are fair and it is not in the nature of fees levied for getting incoem to the Municipality and that the licensing fees for each trade which is offensive of dangersous may be levied as per existing rules

Approved

Sd T Venkataramaniah,
President

Copy

Municipal Commissioner

PSK

3 | 54

Statement showing the different categories of trades using Electric Motors, which are required to obtain a Municipal License and the amount of license fee realized during the past three years

Name of trade	During 51-52 No	Amount	1952-53 No	Amount	1953-54 No	Amount up to December 1953
1	2	3	4	5	6	7
Flour Mills and Rice mills	167	5000/-	98	4467	126	1557
Po er looms and weaving etc ,	57	-	38	701	33	752
Printing Presses	38	465/-	42	391	30	290
Coffee grinders and roasters	46		48	390	47	350
Electric plating and battering charging	9		4	55	5	45
Drilling, Knitting doubling and padding	4		4	25	1	5
Workshops (Lathe and other metal orks Toys Man facture etc	29		32	400	28	325
Electric motors in Hotels for drawing water and refrigerators	9		5	45	4	50
Saw mills	13		7	514	11	744
Cinemas	3		4	55	2	40
Bone meal factory	-		1	325	-	-
Electric lift			1	10		
Oil Rotary			1	45	3	110
Electric Laundry	2		1	24	2	34
Brick and Tile Factory	1		1	60		
Rolling and Calendering machine	3	3400	3	75	3	80
Plastic glass and casing works	3		4	55	1	10
Pencil factory and Milk Pastursing and compessor	2					

1	2	3	4	5	6	7
Tanning	3		5	100	4	70
Soap Factory	4	200	3	226	3	90
	393	9065	302	7963	303	4558

Municipal Commissioner

PSK

Proceedings of the Government of His Highness the Maharaja of

M y s o r e

Read -

Correspondence ending with letter No M5 C 590-171 of 44-45 dated 4th December 1947 from the President, city Municipal Council, Mysore, requesting sanction to the proposal of the Mysore city Municipal Council to amend the bye-law No 4(b) in Chapter XXIV of the Mysore city Municipal Rules and Bye-laws, relating to the Dangerous and offensive Trades so as to provide for the levy of licensing fee on such of the items of the above category of trades as are carried on with the help of an electric motor, on the basis of the horse power of the electric motor noted on the name plate, as noted in the margin

1	Up to 5 H P	a minimum of Rs 5/- per annum
2	Above 5 H P up to 10 H P	a fee of Re 1/- per H P per annum
3	Above 10 H P	Rs 1-8-0 for every Additional H P per annum,

Order No L 15299-301/M1 69-47-4
dated, Bangalore the 31st March 1948

The proposal of the Mysore city Municipal Council is approved

The following will be added under Bye-law No 4(b) as item No 3 on page 176 of the Rules and Bye-laws relating to Mysore city Municipality

" In the case of a business in which an electric motor is used the licensing fee shall be levied on the basis of the horsepower noted on the name plate, as noted below -

1	Hp to 5 H P	a minimum of Rs 5/- per annum
2	Above 5 H P up to 10 H P	a fee of Re 1/- per H P per annum
3	Above 10 H P	Rs 1-8-0 for every additional Horse power per annum

Sd G Ramachandra Rao
For Secretary to Government,
Revenue Department

Copy,

Municipal Commissioner

PSK

Copy of Health Officers Note dated 18-1-52

Representation by the Flour Mill owners Association The following is the representations of the Flour Mill owners of the Mysore city

---

1 That the Municipal Council was collecting license fee at the rate of Rs 5/- irrespective of the capacity of the motors installed for the trade and that the license fee was not being collected on different trades

2 That they would be hard hit by collecting license fee according to the label on the motor and not as per the rated power by the Electrical department

3 That the number of flour mills should be ristricted for each area depending upon the needs of the locality

4 That when a polisher and a flour mill are installed with permission of the Electrical Department to run them alternately they should be treated as one trade and not different trades and license fee charged accordingly

5 That they be permitted to run the flour mills after 6 P M

According to the designed bye-laws framed under section 181 and 51 (1)(b) (3) (6) of the Municipal Act the license fee leviable was as follows -

1 Up to 5 H P a minimum of Rs 5/- per annum

2 Above 5 H P up to 10 H P a fee of Re 1/- per H P per annum

3 Above 10 H P a fee of Rs 1-8-0 for every additional H P per annum

* The license fee is liviable on the basis of the horse power indicated on the name plate as per sub clause 3 of clause of the bye-laws

Subsequently the license fee has been revised as follows

1 Up to 5 H P minimum of Rs 25/- per annum
2 Above 5 H P up to 10 H P for every additional H P to be charged at Re 1/- per annum
3 Above 10 H P fee for every additional H P to be charged at 1-8-0 for H P per annum

On the representation of the Rice Mill owners the Managing Committee revised the rates as follows -

P T O

23

1 Up to 2 H P -a minimum of Rs 5/-
2 Above 2 H P up to 5 H P inclusive-a minimum of Rs 10/-
3 Above 5 H P up to 10 H P a minimum of Rs 15/-
4 Above 10 H P Rs 1-8-0 per every additional H P

The Municipal Council at their meeting held on 30th November 1950approved the above rates,the horse power to be reckoned as per the name plate Further they resolved that in the case of different motors used for the same trade or more than one trade or business levy be made for each such motor or trade or business

resolution
The ~~representation~~/of the Municipal Council is still pending sanction of Government

The Municipal Council were aware that the owners of rice mills, Flour Mills etc , have been charging a higher rate for polishing or for milling grain, rice, wheat etc , than they were doing formerly As such, their contention that they are incurring a heavy loss is not true

The justification for collecting license fee according to the label on the motor is that a motor of certain capacity is permitted in residential area so that it may not be a nuisance to the Public when it is run and that the licensee should be able ~~above~~ to utilise the full capacity of motor installed by him The Electrical department cannot be approached every time with a request to intimate the rated power as it involves considerable strain on the officials of the Department and correspondence

The owners of flour mills represented that on account of the present frequency of electricity being 25 cycles they are able to utilise only current to the extent of 50 percent of the normal capacity of the motor and on this score in order to obtain sufficient power for the machinery, they have installed, ~~xxxxx~~ motors of a much higher capacity than has been licensed by the Municipal Council In fact some people have installed 25 H P motor as against 10 H P motor sanctioned I learnt from the Superintendent M P L that in the course of 3 or 4 months the frequency is going to be changed to 50 cycles from 25 cycles When this is done the motors already installed are capable of generating electricity to the maximum capacity as noted on the label The electrical department is also going to insist on the consumer to utilise electricty to the extent of 80 % at least of the capacity of the motor and fix a monthly minimum The result is that all the mill owners who have installed a higher capacity motor will be obliged either to reduce the capacity of the motor or instal more machinery to consume electricty to the extent stipulated by the electrical department The owners will naturally plead that ~~they have invested large sums of money on purchasing these motors and that~~ they would incur a heavy loss if they are asked, at this stage, to change the motors They would therefore approach Electrical Department and the Municipality to permit them to have a decorticator and additional flour mills so as to consume additional power

If this request is conceded it would result in converting residential areas into industrial areas and disturb the peace and tranquility of the residential area which is so much needed in these days and the object of the Municipal Council to provide amenities like flour Mill and a polisher in congested and residential areas will be frustrated If the Municipal Council insists from now on wards that all motors of higher capacity than that licensed should be removed and substituted by motors for which they possess license, it would obviate the difficulty pointed above

There is no provision in the bye-laws to restrict the number of flour mills in any area It is the privilege of any citizen to carry on any avocation without any restrication as long as he complies with the bye-laws framed in that behalf The very fact that a number of people are applying for licenses to instal new flour mills only goes to show that this business is very lucrative Further if the number of flour mills are restricted, then the owners of the few existing mills may, by concurrence, increase the prevailing rates So it will be better to license ~~xxx~~ as many flour mills as possible to create healthy competition

The Council have resolved to collect license fee on different trades even though the same motor is utilised This seems very reasonable as in many instances people have installed a flour mill, polisher and a decorticator in order to improve their business though the motor is used alternatively for - for running these machinery and it is but just that they should pay a fee to the Municipal Council for the trades they carry on

The association has represented that they may be permitted to run the flour mill after 6 P M This request cannot be complied with as it is a nuisance to have a flour mill next door as the sound produced is annoyang to the people and distrubs the leisure hours of persons The disturbance during day time is bad enough The disturbance should not be continued through dusk and night

The whole file is submitted

(Sd) S Sashagiri Rao
Health Officer

Copy,

Municipal Commissioner

PSK

31.1.54

25

Office Note dated 25-4-1952

Representation of Rice Mills and Flour Mills Association regarding the levy of license fee on the Motors

The Secretary flour mills A sociation has sent on 22-4-52 a copy of the resolution passed by their association, to the effect that until the receipt of a reply from the Municipal President on the representation of the A sociation d ted 9-10-51, the members of the Association should not have their licenses renewed for 51-52 and 52-53 and that they should request the President City Municipal Council not to take further action for the same

The Manager of the city Rice Mill Owners Association had sent on 13-3-52 a representation of the Rice Mill owners for reconsideration of the decision of the Council re reducing the license fee levied on the basis of nominal horse power noted in the name plate of the electric Motors used in their mills. They had asked for an opportunity to be heard

The Health Officer has given a detailed note on the representations of the Flour Mill Owners Association on a representation made by the President of the Association on 6-11-51 The Health Officer has also recommended in his report dated 15-4-52 the issue of a final endorsement to Rice Mill owners' Association as the matter has been fully discussed and disposed of at the council meeting dated 8-3-52

The resolution of the Council dated 8-3-52 is to the effect that these objections are untenable with regard to the levy of license fee on the Horse power noted on the name plate The letter to Government in this behalf has been issued separately

The objections put forth from time to time are (1) that the revised rates are heavy (2) that it is not based on rated horse power depending on the current allowed by the electric department 3) that levy on each trade or business where the same motor is used alternatively for more than one trade or business is not just

Re the first objection it is to be stated that the rates originally proposed were much heavier being as follows -

	Details of items	Present levy	Proposed, levy
1	Up to 5 H P	A minimum of Rs 5/- per annum	A minimum of Rs 25/- per annum
2	Above 5 H P up to 10 H P	A fee of Re 1 per H P per annum	Fee for every additional H P to be charged at Re 1 per annum
3	Above 10 H P	Rs 1-8-0 for every additional H P per annum	For every additional H P to be charged at Re 1-8-0 H P per annum

and after a set of objections received in response the notification dated 3-5-50 with regard to the above were considered, the Council reduced the rates as follows -

P T O

		Existing	Proposed	
1	Up to 5 H P	A minimum of Rs 5 per annum	Up to 2 H P (inclusive of 2 H P)	Rs 5 per ann
2	From 5 H P up to 10 P H	A fee of Re 1 per H P per annum	Above two H P up to 5 H P (inclusive of 5 H P)	Rs 10 do
3	Above 10 H P	Rs 1-8-0 for every additional H P per annum	Above 5 H P up to 10 H P (inclusive of 10 H P)	Rs 15 do
			Above 10 H P	For every Additional H.P Rs 1-8-0 per H P per annum

In the case of the different motors used for the same trade or more than one trade or business, levy will be made separately for each such motor or trade or business.

The question that the rates are heavy is not tenable in view of the above reconsideration

As regards the 2nd, levy of fee on rated horse power, it is to be submitted that much has been discussed in the Council on 8-3-52 that the adoption of the system of levy of license fee on H P noted on the name plate is correct as the Municipality cannot take into consideration the rated horse power allowed by the Electric Department which may very - according to the understanding between the mill owner and the department or the frequency of the current etc , The capacity of a motor ought to be the consideration for levying of license fees as the mill owner can at any time derive the maximum benifit and the Municipality cannot be - responsible for a lower rate of development of horse power obtained by the owner for his convenience

The Health Officer has in his note dated 24/26-1-52 observed "that the justification for collecting license fee according to the label on the motor is that a motor of a certain capacity is permitted in residential area so that it may not be a nuisance to the Public when it is run and that the licensee should be able to utilise the full capacity of motor installed " The Health Officer has also stated that there are cases of installation of 25 H P motor as against 10 H P motors sanctioned The working of a motor has to be examined with reference to the safety of the building where it is located and also place and tranquility to the residents nearby, with reference to the nuisance it may cause to the locality To this extent it is a dangerous and offensive trade and is to be licensed under Section 51 (b) (III) and Section 181

The 3rd point raised in the objection is also answered in the above points in as much as each machinery (motor) is a unit for inspection of a dangerous and offensive trade and requires to be examined as to the safety or otherwise whether run alternately or simultaneously

The Flour Mill owners' Association is stated, in the Memorial of the President of the Association, to have started four months back from December 51 when the representation - memorial was given It would appear that the Association has been formed with a view to submit a protest and nothing else.

Since the matter has been finally disposed off by Council, no action seems to be necessary at this stage but as the - resolution by the Flour Mill Owners' Association and the letter of the Manager of the Rice Mill Owners' Association urge for the subject being discussed by the Council, having their kind orders are solicited in the matter

Inld H S V
Council clerk
25-4-52

Submitted

Sri G Janardana Naidu, President of the city Flour Mill Owners' Association, who had come to the Office some time back in March 1952, stated that the bye-law as amended did not empower levy of different license fees on different trades or businesses, when only one Motor was used, (2) that it was illegal to enforce the amended bye-law and to levy enhanced license fee when sanction of Government, had not been obtained to the proposed amendment, and (3) that, above all, inspite of the assurance of the previous President in December 1951, their representation had not so far been placed before the Council for their decision

Inld H S No
1-5-52 Supt

Orders of the Commissioner

May kindly be placed before the Managing Committee and Council (who, I anticipate, will be inclined to refer it to the Legal Committee)

President with Compliments) Inld , C N
Commr 1-5-52

Orders of the President

Yes May be placed before the Managing Committee and Municipal Council

Inld A K
President
1-5-52

C o p y,

Municipal Commissioner

PSY

31/5

City Municipal Office,
Mysore Dated 30-1-54.

ENDORSEMENT.

With reference to his petition dated 13-1-54 requesting for the withdrawal of the prosecution launched against him, the Proprietor, Sri Saraswathi Rice Mills is hereby informed that the Health Officer has been requested to defer the prosecution proceedings tentatively. But as it was understood that the objection was not only against the levy of rates as approved by Council as notified on 12-1-52 but also against the rates sanctioned as far back as 1948, the matter was examined and found that the objection in respect of the latter was untenable.

As it would be objectionable to stay giving effect to the rates sanctioned in 1948 and not objected to till 12-2-1952 when the revised rates approved by Council were notified, the petitioner is hereby informed that he has to obtain the license paying the fees at the existing rates within a period of 15 days. Failing which further action for running the concerns without license will be taken.

Sd N Lakshman Rau
Municipal Commissioner.

PSK.

Copy to Health Officer for information. 15 days time may be given to these mill owners to obtain their licenses paying the fees at the existing rates and action taken by him may be renewed if they do not get their licenses renewed

(Sd) N Lakshman Rao
Municipal Commissioner.

Copy
Municipal Commissioner
31/1/54

Appendix F G—1]

SUBJECT

23

Diary No of letter replied to

Mysore Government Secretariat

( )

the *195*

Date of issue

Signed by

List of enclosures

Copied by

Examined by

Section

File No

Serial No

No L 15506 2-3-52

To

Re grant of a Permit Amendment Act Bye-law xlvi(g) to dispense with approval being carried on into electric motors

Sir

With reference to your letter no C2/R 20-13/50-51. 301/54 on the above subject I am directed to request you kindly to send copies of judgments of Hon'ble High Court, referred to in your letter but not enclosed as stated

Yrs

for Secy to Govt

Regl Dept

No Encls

CITY MUNICIPAL COUNCIL
P B No 17

Mysore Dated 15-3-54

FROM

THE MUNICIPAL COMMISSIONER

City Municipal Council
MYSORE

To

The Secretary to Government,
L S G & Planning Departments,
Bangalore -1

(Through the President)

Sir,

Subject - Amendment of the Bye-laws relating to Dangerous and Offersive trades carried on with - Electric motors

---

Reference - Your letter No L 15706/2-3-54

A copy of the judgment of the High Court of Madras is enclosed for reference

Yours faithfully,

(I Lakshman Rao)
Municipal Commissioner

Forwarded with compliments,

(C Puttaswamy)
President

P C Varadachari Partner, Madras Oil Mills and Products

Vs

The State of Madras by the Secretary to the Government of Madras Food & Agriculture Departments

Rajamannar C J and Venkatarama Aiyer J

C M P No 5590 of 1951

Petition (disposed of on 22-2-1952) under Art 226 of the constitution praying that in the circumstances stated in the affidavit filed therewith the High Court will be pleased to issue a writ of certiorari calling for the records in the proceedings taken by the State of Madras under G O Ms No 2435 Food and Agrl dated 29-12-1950 and published in the Fort St George Gazette dated 16-1-1951 and quash the order therein and to award costs to the petitioner

Madras Manure Dealers Licensing Order, 1949, as amended in 1950 Enhancement of License fee-Disproportionate and license fee- Difference-Principles governing

The enhanced fee imposed by the amendment in 1950 to the Madras Manure Dealers Licensing Order, 1949 upon licenses granted to Oil Mills, is unconstitutional and therefore invalid because the fee would amount to an unreasonable restriction on the exercise of the right to carry on business guaranteed by the Constitution and also because the fee is discriminatory and in contravention of Art 14 of the Constitution There is a fundamental difference between a license fee and a tax namely that in the case of a license fee imposition is intended to reimburse the authority in any amount expended by it in respect of the particular business or matter which is intended to be regulated whereas a tax is the recognised method of raising revenues for general purposes It is not for a court to minutely assess and fix what in its opinion is the proper fee all that the court can do is to hold whether a particular fee is reasonable or not

Mr K V Venkatasubramaniam for Petitioner

The Advocate General for the Government Pleader for Respondent

O r d e r

The petitioner is a partner of a firm carrying on the business and trade of an oil miller under the name and style of Madras Oil Mills and Products The Oil Mill owned groundnut and producing groundnut oil and groundnut cake The firm had been granted a license under the Madras Manure Dealers' Licensing Order The fee for the said license was Rs 10/- from the year 1947 By G O No Ms 2435 (Food and Agriculture) dated the 29th December 1950, an amendment was made to the Madras manure Dealers Licensing Order 1949, providing for the enhancement of the license fee The rate, so far as oil mills are concerned, was fixed at Rs 100/- for each expeller and Rs 20/- for each rotary or screw press For mere dealers in manure the license fee was fixed at Rs 20/- and for firms engaged in manure mixing trade the license fee was fixed at Rs 100/- with a non-recurring fee of Rs 50/- for each manure mixture marketed In accordance with this amendment the petitioner's firm became liable to pay a sum of Rs 500/- as license fee as there were five expellers in the mill The Petitioner seeks to have the aforesaid G O dated the 29th December 1950 enhancing the license fee, quashed by a writ of Certiorari

The main ground on which the enhancement is impugned is that the new rate of fee is disproportionately high and virtually amounts to levy of a tax The material allegations are contained in paragraph 9 of the affidavit which runs as follows -

" I submit that the Gove ment by levying such dispro- p ionately high rate of license fee are in fact levying a tax which can only be done by the Legislature and not by the Executive Fu-ther the license fee should be only to cove the cost of issuing licenses and for general supervision and in this case I submit that except that the Madras Manure Dealers Order makes it obligatory for me to make returns of production and sale oil, there is absolutely no control over the dealers in manure by the respondent and even the sum of Rs 10/- previously collected per year is in effect a tax and not a license fee "

He also attacks the new amendment on the ground that the classification adopted by it is discriminatory and is inconsistent with the provisions of Art 14 of the constitution

On behalf of the State, the Joint Director of Agriculture filed a counter affidavit supporting the amendmen He stated that there had been frequent complaints from the public of adulteration of oil cakes used as cattle food and manure an the Government have approved of certain amendments to the Madras Manure Dealers' Control Order, the enforcement of which would ensure good quality in manure To enforce these amendments it is said that the staff of inspectors and analysts for analysing manure sample had to be strengthened A statement was given of the strength of the staff employed and the expenditure by the Government on this account during 1950 and 1951 which showed a total of Rs 43,589 It was further stated that the question of employing additional staff for the purpose at an estimated cost of Rs 56720/- was under the considera tio of the Govemment the Judgment justification for the imposition of the enhanced license fee may be stated in the language employed in the counter affidavit which is as follows -

' In fixing the different scales for different classes of licenses what was prominently kept in view was that the scale of taxation or license fee should be based on the work involved and cost of the control and inspection necessary It is the millers who supply the dealers with oil cakes, and frequent checks to ensure quality are therefore necessary at the very source It cannot therefore be contended that the imposing of license fee is not justified by consideration relating to the gene al public "

and further on,

' When compared to the cost of installing and o king an oil mill, the enhanced license fee of Rs 100/- per expeller per annum is an insignificant amount The capacit to pay and the fact that oil mills are the source of supply of oil cakes to dealers and hence frequent checks have to be made at the source were prominentl kept in view in propo ing the enhancement of license fees "

It is now well established that there is a funlamental difference between a tax and a license fee The issue of licenses to regulate particular branches of business or specified trades or occupations and other matters is part of what in merican constitutional law is called the police Power " of the State For the grant of a license a fee may be charged to cover probable

expense which may have to be incurred for the regulation of the particular trade or business or calling in respect of which the licence fee is not intended to raise revenue for the ~~general~~ the general purpose of the authority levying the fee For such purposes the levy should be in the shape of a tax the ~~xx~~ licence fee must be reasonable whereas a tax need not be

Courts have often dealt, with the question whether a particular licence fee is reasonable or not Though, ultimately the decision in each case must depend upon the particular facts of that case, certain general tests have been formulated to decide whether a particular fee is reasonable in the circumstances In laying down these general principles, Courts have always kept in view the essential difference between a licence fee and a tax that in the case of a licence fee imposition is intended to reimburse the authority in any amount expended by it in respect of the particular business or matter which is intended to be regulated whereas the tax is the recognised method of raising revenues for general purposes It is useful to refer to some of the decided cases on the point, and we shall begin with the ruling of the Privy Council in Pazundaung Bazar Co ,Ltd V Municipal Corpo tion of the city of Rangoon (1) That was given on an appeal from the judgment of the Rangoon High court reported in Municipal Corporation of Rangood V Pazundaung Bazar & Co , Ltd , 2 Under the city of Rangoon ~~Xx~~ Municipal Act, the Corpo ation had power to charge licence fees for private markets The question was whether the licenee fee imposed was unreasonable. Herlld Offg C J rejected the con ention of the owners of the private markets who were protesting against the levy that the only charges recoverable by way of licence fees were the cost of the papers on which the licences and receipts were printed together with the costs of printing and writing thereon and the cost of such inspection as was directly connected with the license themselves He held (and Mya Bu J concurred with him) that the licence fee may reasonably cover the cost of all special services necessitatuated by the duties and liabilities imposed on the Corporation in respect of the supervision and - regulatio of private markets The Privy Council agreed with this statement of the law

In Corporation of Madras V Spencer & Co (1) this Court held that a license fee imposed by the Corporation of Madras for storing spirits was unreasonable because the imposition was not with a view to pay for the expenses in connection with the licenses but was obviously done to increase the revenue of the Corporation from liquor The learned Judges accepted the view of the trial Judge, Beasley J (as he then was) that license fees were leviable as compensation to the Corporation for the expenses incurred in the issue of licenses and the general regulation of the trades and other occupations which were licensed and that there must be some relation between these expenses and the amount of fees leviable In the case before them they found on the evidence which had been adduced that the expenses of supervising the places where foreign liquor was stored were practically nil Teilly J enunciated two general principles which may be useful to determine whether license fees can be held to be reasonable or not, namely,

"If we accept the proposition that the power of charging license fees cannot be used for taxation, then we must say that as a whole the fees chargedby the Corporation must not be very much in excess of what the duties cast upon them and their staff in connection with the licenses cost them There is the cost of issuing the licenses, there is the cost of inspecting the premises the to see whether they are suitable for the purpose proposed, and there is the subsequent cost of inspecting the premises to see that they are being used properly and that the conditions and restrictions imposed by the Commissioner are observed But, roughly speaking, if the fees are charged at so high a rate that as a whole they bring in very much more than the cost of these operations to the corporation then I think we can rightly say that they are unreasonable There is another principle Although it is almost impossible for the Corporation to itself to ascertain, when they are issuing a number of licenses to persons engaged in different rades and occupations, exactly what is the cost of any particular license or of licenses for persons engaged in particular trades or occupations- and certainly we could not attempt anything of that sort -- yet, surely it would be unreasonable if they so fixed the fees that the whole cost incurred by them in connection with all the licenses or a grossly disproportionately part of it was imposed on one particular trade or a few particular trades These principles, I think, may be of help in ascertaining whether a particular fee is reasonable or not "

Of course it is not for a Court to minutely assess and fix what in its opinion is the proper fee All that the Court can do is to hold whether a particular fee is reasonable or not

Practically the same principles were reiterated in a subsequent decision of this cout in the Municipal Council, Kumbakonam v Messrs Ralli Bros (2) It was held that the license fee should be commensurate with the extra cost entailed by granting the licenses and exercising such supervision as was necessary to see that it's terms were complied with But the fees should not be so assessed as substantially to to contribute to the general revenues of the local body

The decisions above cited were all discussed in Kunhambu v Local Fund Overseer Chirakkal (3) in which it was again laid down that the license fee should not be converted into a tax for the purpose of raising revenue and the license fee should bear a definite and well recognised relation to the expenses incurred by the licensing authority

The decision in Indian Sugars and Refineries Ltd v Municipal Council, Hospet (4) relied upon by the learned Advocate General does not lay down any different principle The following observations of Wadsworth J are apposite -

"It is, we think, well settled that a license fee for carrying on a particular trade or industry should not be regarded as a form of taxation the extent of which is to be governed purely by revenue considerations The license fee should bear as nearly as possible a relation to the cost of issuing the license and the cost of supervising the trade or of any special measures rendered necessary by the character of that trade We doubt whether the municipality would be justified in increasing the license fee chargeable upon a particular industry merely by reason of the cost of ordinary municipal services to which that industry is entitled by virtue of its position as a tax payer in the municipality But if the industry involes special sanitary precautions, a special supervising agency or such like expenditure, it is we think, reasonable to take this expenditure into account in fixing the amount of the fee When a supervision agency is necessary for a number of industries, it will always be difficult to say how the cost is to be apportioned and, so long as the apportionment is to be made on a reasonable basis, it is not for the Court to interfere with the way in which it has been achieved "

Substantially similar principles have been laid down by the Supreme Court of the United States It is sufficient to cite one instance, namely, the decision in Ingles v Morf(1) in which a permit fee was held to be invlaid because it bore no reasonable relation to the total cost of regulation to defray which it was collected

Bearing these principles in mind, let us examine the facts of the present case The license fee in question is imposed under the Madras Manure Dealers' Licensing Order 1949 That order was made by the Government of Madras in exercise of the powers conferred by S 3 of the Madras Essential Articles Control and Requisitioning (Temporary Powers) Ordinance, 1949 and in supersession of the Madras Manure Dealers' Licensing Order, 1947 It may be mentioned that the said Ordinance has now been replaced by Madras Act XXIX of 1949, Cl 2 of this order defines a dealer as

"Oil miller or a person who sells manure in quantitites of not less than one maund at a time

"Oil miller" means any person owning or having in his possession or under his control, an oil mill run by power or hand presses but does not include a person owning or having in his possession or under his control wooden or stone chekku "

Cl 3 enacts that no person shall on and after 6th December 1949 carry on business as a dealer in manure in the Province of Madras except under and in accordance with a license issued in that behalf by a licensing authority A fee of Rs 10/- per annum is payable in advance with every application for a license (Cl 4(ii) Cls 6,7,8 and 9 deal with issue of and refusal to issue licenses to applicants Cl 10 runs thus -

"Any Officer authorised by the Director may enter upon and inspect any premises in which he has reason to believe that the sale or storage for sale or distribution of manure is taking place contrary to the provisions of this Order or any order made thereunder "

Form II set out in the schedule contains the terms and conditions of the license, the following of which are important,-

"3 The licensee shall not store manure in any place other than that specified in paragraph 2, except with the approval of the licensing authority

4 The licensee shall maintain a register of daily accounts showing correctly all transactions in manure in his possession or control It shall show -

a) the opening stock on each day

b) the quabtities sold, delivered or received each day, showing the place of origin, that is, the name of oil miller or factory or other consigner from whom received,

c) the quantities sold, delivered or otherwise disposed of on each day showing theplaces of destination and the names of the consignees, and

(d) the closing stock on each day

5 The licensee shall submit to the licensing authority so as to reach him not later than the 10th of each month, a true return in Form III set out in the schedule to the Madras Manure Dealers' Licensing Order, 1949, of the stocks, receipts, deliveries and balances during the preceding month

8 The licensee shall give all facilities at all reasonable times to any officer authorised by the Director of Agriculture, Madras, for the inspection of his accounts and stocks wheresoever they may be kept and for taking samples of such manures for examination

9 The licensee shall comply with any directions that may be given to him by the Director of Agriculture, Madras, or any officer authorised by him in regard to the sale or storage for sale or distribution of manure "

There is provision for a contravention of any of the conditions of the license

It will be noticed from the provisions of the Order as well as the license that the licence in question is what may be called a "dealers' licence" No doubt a 'dealer' is defined as including an oil miller, but even in respect of him the order relates only to transactions of sale and distribution There is nothing in the order which directly or indirectly provides for anything other than the regulation of the sale of manure In Form II, i e , the license form, there is one term which makes it incumbent on the licensee to give all facilities to an officer authorised by the Director of Agriculture to take samples of manure for examination But there is nothing in the order or in the license which imposes any punishment on a person selling adulterated or bad type of manure Nor is there anything to indicate as to what is to happen after the officer of the Agriculture Department takes samples of manures for examination The supervision and regulation contemplated by the Order are confined to the stocking and sale of manure and do not relate to the maintenance of any quality It is apparently because of this fact that in the Order itself a flat rate of Rs 10/- per annum is prescribed for every licence

If Rs 10 was considered to be proper and adequate fee from 1947 onwards, what then is the justification for a sudden enhancement in 1951 from Rs 10/- to Rs 100 per expeller? The statement set out in paragraph 7 6 of the counter affidavit filed on behalf of the State relates to the staff of the Inspectors of Fertilisers and Chemical Analyst's section of Agriculture dpearment of the Government Presumably the staff is engaged in checking and anylysing samples of fertilisers and other things But there is nothing in the order to indicate that the licence required from the dealers is for the purpose of ensuring the proper quality of manure being sold There is not even a provision which makes a sale of adulterated or unwholesome manure punishable

We are not impressed with the figures set out in the counter affidavit Many material particulars are found wanting as regards this aspect of the matter The costs of theestablishment has been given but we have no information as to the total amount being collected as license fees from the various classes of dealers dealt with by the Order There is no averment that the total of fee collected is much less than the costs of establishment On the other hand, on the information supplied to us in the counter affidavit it is clear that the total fees at the enhanced rate which can be collected from the oil millers alone, completely leaving out of account the other classes of dealers, would far exceed the cost of establishment There are 478 oil mills which have expellers and the average number of expellers per mill is 2 5, that is to say, on an average each oil mill would be liable to pay a license fee of Rs 250/- The total fee for 478 oil mills having expellers would be Rs 1,19,500 Besides there are mills having rotaries or screw presses These number 687 The average number of rotaries per mill is 3 6, and the enhanced rate is at Rs 20 per each rotary If the amount calculated at this rate is added to

the amount of fee which can be collected from the expeller mills, the figure reached is disproportionately high in comparison with the expenditure incurred by the Government even according to their statement in the counter affidavit

It is impossible to discover any rational basis for adopting the expeller as a unit for charging licensee fee If it is said that the more the number of expellers it would mean more manure produced and sold, then it can be very properly asked, what about the other dealers who may actually stock and sell much more than what any oil miller may be able to produce and sell? Such dealers have to pay only at a flat rate of Rs 20/- The enhancement in the case of oil millers only would in that event be clearly discriminatory and would offend the provisions of Art 14 of the Constitution

We must therefore hold that the enhanced fee imposed by the amendment in 1950 in unconstitutional and therefore ~~invalid~~ invalid because the fee would amount to an unreasonable restriction on the exercise of the right to carry on business guaranteed by the Constitution and also because the fee is discriminatory and in contravention of Art 14 of the Constitution The application is allowed and the rule nisi is made absolutely The State will pay the petitioner the costs of this application Rs 150

Municipal Commr
18/3/54

M G S App F G 3

MYSORE GOVERNMENT
SECRETARIAT

(Continuation sheet draft form)

L2687 / 12-6-52 38
Dpc 96 Es / C on 27-52-106

Subject Amendment of the
Bye-laws relating to
dangerous and offensive
trading Carried on with
Electric Mains - Mysore
City - MS

To
The M Prime Mysore City MS

Sir,

With reference to your letter
No C2 PR 20-137 50-51 dated
20 3 54 on the above subject
I am directed to state that
~~objection has been taken that the~~
~~item fee demand~~ a charge
for a special service rendered
to and received by some
Government agency
The distinction between a
tax and a fee has primarily

as generally observed
to be

WD 03046—GPB—10 000 —14 8 53

37

in the fact that a tax is
levied as a part of a common
burden while a fee is a
payment for a special
benefit or privilege

In view of these observations
I am to request you to fix
the reasonable rates so as to be
in conformity with the principle
laid down by the Supreme
Court for levy of fees
The above bye laws are therefore
returned herewith -

7 2
16
2 685 of 1930
21

7/6/31

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2682 /CM 27-52-106 Municipal Branch,
5 12 June 54

The
L S G & Planning Departments

To

The Municipal Commissioner,
Mysore City Municipality,
(through the President)

Sir,

Subject - Amendment of the Byelaw relating to Dangerous and Offensive Trading carried on with Electric Motors - Mysore City Municipality

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With reference to your letter No C2 P R 20-13/50-51 dated the 20th March 1954 on the above subject, I am directed to state that the term "Fee" is generally defined to be a charge for a special service rendered to individuals by some Governmental Agency

The distniction between a "tax" and a "fee" lies primarily in the fact that a tax is levied as a part of a common burden while a fee is a payment for a special benefit or privilege

In view of these observations, I am to request you to fix the reasonable rates so as to be in conformity with the principle laid down by the Supreme Court for levy of fees

The draft byelaws are therefore returned herewith

Yours faithfully,

(V Hanumanthappa)
for Secretary to Government,
L S G & Planning Departments

LNS 2 7/6

No
Encls

C2PR 20-13 eu
50-51

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MYSORE 2953 MUNICIPAL BRANCH
29 JUL 1955

CITY MUNICIPAL COUNCIL
P B No 17

Mysore, Dated 28th July 1955

FROM

THE MUNICIPAL COMMISSIONER
CM 27 52-107 City Municipal Council
MYSORE

To

The Secretary to Government,
Education and L S G Departments
Bangalore 1

(Through the President)

Sir,

Subject Dangerous and Offensive Trades -
Levy of license fees levied in respect of
electric motors used for flour and other mills

In the letter under advertance you have pointed out the distinction between a tax and a fee etc Thereafter a note was placed before the Council that it may not be desirable to enhance the license fees as recommended by the Council in their resolution No 953 dated 30-11-1953 vide this office letter No C2 PR 13/50-51 dated 5-12-1950 and that the rates sanctioned by Government in their order No L 15299-301/M 109-47-4 dated 31-3-1948 may stand This has been approved by the Council I herewith enclose a copy of their resolution passed at a meeting held on 27-7-1955 and request that the matter may kindly be treated as closed

Yours faithfully,

(N Lakshman Rau)
Municipal Commissioner

Forwarded with compliments

(K Puttaswamy)
President

29/7

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Proceedings of the Ordinary meeting of the Mysore City Municipal Council held in the Municipal Offices on 27-7-1955 at4 p m

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470 Managing Committee Res No 318/12-7-1955 recommending approval to the officenote dated 4-7-1955 regarding the adoption of the rates fixed in the C O Of 1948 in respect of the electric motors (vide letter No I 2682/CM 27-52-106 dated 12-6-1955 from the Secretary to Covernrent LSG and Planning Departments)

Approved

Sd K Puttaswamy,
President

Copy

Municipal Commissioner

28/7/55